

# Public Notice

---

## **TITLE 2. Administration**

### **DIVISION 7. Secretary of state**

#### **Notice of proposed rulemaking**

Notice is hereby given that the Secretary of State intends to adopt the proposed regulations described below. The Secretary of State adopted the proposed text as emergency regulations on April 3, 2003. The emergency regulatory action will expire on August 2, 2003.

#### **Proposed regulatory action**

Assembly Bill (AB) 797, Chapter 380, Statutes 2002 added Chapter 3.2 (commencing with Section 6215) to Division 7 of Title 1 of the Government Code. This chapter charges the Secretary of State with the responsibility of operating a confidential address program for reproductive health care services providers, employees, volunteers, and patients. The program shall be known as Safe at Home. The Secretary of State is authorized to promulgate regulations to facilitate the administration of the program by state and local agencies pursuant to Section 6215.9 of the Government Code.

The Secretary of State proposes to add Chapter 11, consisting of Sections 22100, 22110, 22120, and 22130, to Division 7 of Title 2 of the California Code of Regulations. Section 22100 would establish: (1) the program as Safe at Home; (2) eligible community-based assistance programs that may participate as enrolling agencies; (3) confidential manner in which enrolling agencies are to treat applicant information; and (4) grounds upon which enrolling agencies shall cease to participate as such. Section 22110 would establish: (1) nonrefundable \$30 application fee and \$75 annual fee for reproductive health care services facilities, providers, employees, volunteers, and their families; and (2) no application or annual fees for reproductive health care services patients and their families. Section 22120 would establish (1) renewal procedures for reproductive health care services facilities, providers, employees, and their families; and (2) renewal procedures for reproductive health care services volunteers and their families. Section 22130 would establish: (1) termination and notification procedures for program participants and enrolling agencies; (2) appeal procedures; and (3) procedures if the termination date occurs while appeal is pending.

#### **Public hearing**

The Secretary of State has not scheduled a public hearing on this proposed action. However, the Secretary of State will hold a hearing if a written request for a public hearing is received from any interested person, or his or her authorized representative, no later than fifteen (15) days before the close of the written comment period.

#### **Written comment period**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Secretary of State. The written comment period closes at 5:00 p.m. on June 2, 2003. Only written comments received at the office of the Secretary of State by that time shall be considered. Submit written comments to the contact person listed below.

### **Authority and reference**

Section 6215.9 of the Government Code authorizes the Secretary of State to adopt rules to facilitate the administration of Chapter 3.2 (commencing with Section 6215) of Division 7 of Title 1 of the Government Code. Furthermore, subdivision (e) of Section 6215.2 specifically states that the Secretary of State shall by rule establish renewal procedures. The proposed regulations would implement, interpret or make specific subdivisions (a), (c), and (e) of Section 6215.2 and subdivision (c) of Section 6215.4 of the Government Code.

### **Informative digest and policy statement overview**

Currently, the Secretary of State operates a confidential address program for victims of domestic violence and stalking. Senate Bill 489, Chapter 1005, Statutes of 1998 established the confidential address program for victims of domestic violence, known as Safe at Home, and in January 2001 the program was expanded to serve victims of stalking. The Secretary of State serves as the agent for service of process for legal documents and as the destination for mail for program participants. Victims of domestic violence and stalking may apply to participate in Safe at Home through an enrolling agency, such as a domestic violence shelter, and no fees are charged. As of April 1, 2003, Safe at Home for victims of domestic violence and stalking had 1,623 participants and the program continues to grow steadily.

Assembly Bill 797, Chapter 380, Statutes of 2002 added Chapter 3.2 (commencing with Section 6215) to Division 7 of Title 1 of the Government Code, further expanding Safe at Home to include reproductive health care services facilities, providers, employees, volunteers, patients, and their families. Subdivision (b) of Section 6215.1 defines reproductive health care services as health care services relating to the termination of a pregnancy in a reproductive health care facility. The Legislature declared that reproductive health care services providers, employees, volunteers, and patients, especially relating to the termination of pregnancy, are often subject to harassment, threats, and acts of violence by persons or groups. In order to prevent potential acts of violence from being committed against reproductive health care facilities, providers, employees, volunteers, and patients, the Legislature found it necessary to ensure the confidentiality of residence address information for these individuals. The confidential address program enable: (1) state and local agencies to respond to public records requests without disclosing residential locations of reproductive health care services providers, employees, volunteers, and patients; (2) interagency cooperation with the Secretary of State in providing address confidentiality for reproductive health care services providers, employees, volunteers, and patients; and (3) state and local agencies to accept a program participant's use of an address designated by the Secretary of State as a substitute mailing address.

Although Safe at Home for reproductive health care services providers, employees, volunteers, and patients will operate similarly to Safe at Home for victims of domestic violence and stalking the two programs are distinguished by the following: (1) program participants, except patients, are required to pay application and annual fees; and (2) government agencies must keep entire records of reproductive health care services providers, employees, volunteers, and patients confidential, whereas only address and name change confidentiality is provided under Safe at Home for victims of domestic violence and stalking.

The Secretary of State is authorized to promulgate regulations to facilitate the administration of the program pursuant to Section 6215.9 of the Government Code. In addition, subdivision (e) of Section 6215.2 states that the Secretary of State shall by rule establish renewal procedures. Given this authority, the Secretary of State proposes to add Chapter 11, consisting of Sections 22100, 22110, 22120, and 22130, to Division 7 of Title 2 of the California Code of Regulations.

#### **Section 22100 of the Proposed Regulations**

Section 6215.8 of the Government Code states that the Secretary of State shall designate state and local agencies and nonprofit agencies that may assist persons applying to be program participants. Further, subdivision (a) of Section 6215.2 of the Government Code states that an application shall be completed in person at a community-based assistance program designated by the Secretary of State. Section 22100 of the proposed regulations implements, interprets and makes specific subdivision (a) of Section 6215.2. Subdivision (a) of Section 22100 of the proposed regulations establishes the name of the program as Safe at Home. Subdivisions (b) and (c) limit eligible community-based assistance programs that may serve as enrolling agencies to independent abortion providers and Planned Parenthood clinics that provide on-site abortions and outline the application process. Subdivision (d) states that all applicant information is confidential and is to be treated as such by enrolling agencies and requires enrolling agencies to forward all applications to the Secretary of State within twenty-four (24) hours of receipt. Subdivision (e) identifies the grounds upon which an enrolling agency shall cease to be designated as such, applies termination notification and appeal procedures in Section 22130, and requires all Safe at Home applications and materials to be returned to the Secretary of State within three (3) business days.

#### **Section 22110 of the Proposed Regulations**

Subdivision (c) of Section 6215.2 of the Government Code states that the Secretary of State shall determine an application fee that shall not exceed the actual costs of enrolling in the program. Subdivision (a) of Section 22110 of the proposed regulations establishes a \$30 nonrefundable fee for an application submitted by a reproductive health care services facilities, providers, employees, volunteers, or family member of a program participant who is a reproductive health care services provider, employee or volunteer. Subdivision (b) of Section 22110 establishes a nonrefundable \$75 annual fee for reproductive health care services facilities, providers, employees, volunteers, and family members of program participants who are reproductive health care services providers, employees and volunteers. The annual fee must be received by the Secretary of State no later than five (5) business days after the anniversary date of becoming a program participant. If the annual fee is received after five (5) business days, the certification as a program participant shall be terminated in accordance with Section 22130. Subdivision (c) of Section 22110 states that application and annual fees shall not be charged to reproductive health care services patients and family members of a reproductive health care services patients.

### **Section 22120 of the Proposed Regulations**

Subdivision (e) of Section 6215.2 of the Government Code states that the Secretary of State shall establish by rule a renewal procedure. Subdivision (a) of Section 22120 of the proposed regulations requires the Secretary of State to mail a renewal application to each program participant, except program participants who are reproductive health care services volunteers, at least two (2) months prior to the four-year anniversary date of certification as a program participant. The renewal application must be received by the Secretary of State no later than five (5) business days after the expiration of the four-year certification term. Subdivision (b) of Section 22120 requires a program participant who is a reproductive health care services volunteer to immediately notify the Secretary of State in writing as to the last date he or she volunteered at a reproductive health care services facility. The Secretary of State is required to send a letter of confirmation as to the date the program participant certification shall expire.

### **Section 22130 of the Proposed Regulations**

The certification as a program participant and designation as an enrolling agency may be terminated. Subdivision (b) of Section 6215.4 of the Government Code enumerates the conditions under which the Safe at Home program manager may terminate a person's participation in the program and subdivision (c) of Section 6215.4 of the Government Code states that a program participant shall have five (5) business days in which to appeal a termination under procedures developed by the Secretary of State. Subdivision (e) of Section 22100 of the proposed regulations enumerates the grounds upon which a designation as an enrolling agency may be terminated and applies the procedures outlined in Section 22130 of the proposed regulations. Subdivision (a) of Section 22130 of the proposed regulations requires the Secretary of State to send the termination notice by certified mail to program participants and enrolling agencies. The termination notice shall include the grounds for termination, the date in which the termination shall be effective, and the appeal procedures. Subdivision (b) of Section 22130 of the proposed regulations states that the appeal shall consist of a statement signed by the program participant or authorized representative of the enrolling agency outlining arguments and facts as to why the certification or designation should not be terminated. Any supporting evidence must be submitted with the signed statement. The Secretary of State shall have three (3) business days to review the appeal, issue a decision, and send the decision by certified mail to the program participant or enrolling agency. Subdivision (c) of Section 22130 requires the Secretary of State to continue to act as though the program certification is valid if the appeal process extends beyond the termination date identified in the termination notice. Subdivision (d) of Section 22130 requires that if the appeal process extends beyond the date of termination as a designated enrolling agency, a community-based assistance organization shall not represent itself as an enrolling agency, unless and until such time as the Secretary of State reinstates the designation.

### **Availability of Text in Plain English**

The text of the proposed regulations is available in plain English from the contact person listed below.

### **Disclosures regarding the proposed action**

The Secretary of State has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None. The proposed regulations would not result in a cost or savings to any state agency. Subdivision (c) of Section 6215.1 of the Government Code states that the application fee for reproductive health care services facilities, providers, employees, and volunteers shall not exceed the actual cost of enrolling in the program and not the cost of maintaining and operating the program. The application fee of \$30 was determined by the estimated processing time of 30 to 40 minutes required for each application. The job duty of processing applications would be performed by a program technician and includes, but is not limited to, review, research, database entry, certification packet preparation, and identification card preparation. Factored into the fee is the hourly wage for a program technician, including benefits, and additional attention that may be required to complete an application. Subdivision (c) further states that the Secretary of State may charge annual fees to defray the actual costs of maintaining the program and that annual fees shall be used to reimburse the General Fund for any amounts expended for the program. The \$75 annual fee has been determined not to be cost prohibitive for program participants while providing funding to defray the cost of maintaining the program.
- Cost to any local agency or school district, which must be reimbursed in accordance with Section 17561 of the Government Code: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states: None. The proposed regulations would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states. The businesses impacted are a select group providing termination of pregnancy and are not of a nature that compete with businesses in other states. The reproductive health care services facilities that voluntarily choose to do so may serve as enrolling agencies and program participants. Threats and acts of violence in the workplace and homes of reproductive health care services providers, employee, volunteers, patients, and their families are a reality, having a significant impact in terms of economics, security, and in the manner in which services are provided. The Legislature found that threats and acts of violence are a serious consideration and deterrent for physicians entering the reproductive health care services field. The purpose of the confidential address program is to protect against these threats and acts of violence. The \$30 application fee and \$75 annual fee will have a minimal economic impact, if any, which will be outweighed by the benefits offered.

- Cost impact representative private persons or businesses would necessarily incur in reasonable compliance with the proposed action: Minimal. The \$30 application fee and \$75 annual fee in the proposed regulations will have a minimal cost impact on representative private persons and businesses. Safe at Home is a voluntary program that offers address confidentiality for reproductive health care services facilities, providers, employees, volunteers, patients, and their families. Threats and acts of violence in the workplace and homes of these individuals are a reality and the \$30 application fee and \$75 annual fee for program participants is minimal in comparison to the benefits offered. For facilities that voluntarily serve as enrolling agents the Secretary of State anticipates the cost impact to be minimal. The Secretary of State shall provide the training to counselors, orientation information, and applications.
- Adoption of these regulations will not do any of the following: (1) create nor eliminate jobs within California; (2) create new business or eliminate existing business within California; nor (3) affect the expansion of business currently doing business within California.
- Significant effect on housing costs: None.

#### **Business reporting requirement**

The business reporting requirement is not applicable to the proposed regulations.

#### **Small Business Determination**

There are more than 50 specialized women's health programs under the Department of Health Services, more than 600 hospitals and an unknown number of medical clinics, counseling facilities, and surgical and physician offices throughout California relating to women's health. The Secretary of State is unable to determine the number of reproductive health care services providers and facilities that are defined as small businesses.

The \$30 application fee and \$75 annual fee charged to reproductive health services providers, employees, volunteers, and their families who voluntarily participate in Safe at Home is minimal. The proposed regulations would not result in any adverse economic impact on small businesses that provide reproductive health care services.

In regards to community-based assistance programs designated by the Secretary of State where interested persons meet with a counselor, receive orientation information, and complete applications, these programs will voluntarily apply to participate in Safe at Home. The Secretary of State is unable to determine the number of designated community-based assistance programs that would be considered small businesses. Given that the Secretary of State will train the counselors and provide the orientation information, the proposed regulations would not result in any adverse economic impact on small businesses that are designated as community-based assistance programs.



**Consideration of alternatives**

In accordance with paragraph (13) of subdivision (a) of Section 11346.5 of the Government Code, the Secretary of State must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**Availability of statement of reasons and text of proposed regulations**

The Secretary of State shall have the entire rulemaking file available for inspection and copying throughout the rulemaking process. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the text of the proposed regulations, and the initial statement of reasons. For further information regarding inspection of the rulemaking file, contact the Regulations Coordinator at (916) 653-3345 or the designated back-up contact at (877) 322-5227. Copies of the rulemaking file may be obtained at [www.ss.ca.gov/safeathome/](http://www.ss.ca.gov/safeathome/) or by contacting the Regulations Coordinator listed as the contact person below.

**Availability of changed or modified text**

Following the close of the public comment period, the Secretary of State may adopt the proposed regulations substantially as described in this notice. If the Secretary of State makes modifications which are sufficiently related to the originally proposed text, the modified text with changes clearly indicated shall be available to the public for at least 15 days before the Secretary of State adopts the regulations as revised. Please send requests for copies of any modified regulations to the contact person listed below. The Secretary of State will accept written comments on the modified regulations for 15 days after the date on which the modified regulations are made available. Once the final statement of reasons is prepared in accordance with subdivision (a) of Section 11346.9 of the Government Code copies may be obtained at [www.ss.ca.gov/safeathome/](http://www.ss.ca.gov/safeathome/) or by contacting the Regulations Coordinator listed as the contact person below.

**Contact person**

Direct all inquiries and requests for copies of proposed text of the regulations, initial statement of reasons, modified text of regulations, if any, or other information upon which the rulemaking file is based to: Safe at Home Confidential Address Program, Attention: Regulations Coordinator, P.O. Box 846, Sacramento, California 95812.